MICHIGAN OSTEOPATHIC LAW

OF THE

BOARD OF OSTEOPATHIC REGISTRATION AND EXAMINATION

STATE OF MICHIGAN

Department of Licensing and Regulation

1033 S. Washington Ave. Lansing, Michigan 48926

NOTICE

The statutory provisions and rules contained in this booklet are *not to be considered the final authority on the current law.* While every effort has been made to insure the accuracy and completeness of this booklet, it is impossible to include changes in the law which occur after this booklet has been printed.

This booklet contains the law effective on July 19, 1974.

Revisions to the statutory provisions and rules contained in this booklet may be obtained from the Michigan Department of Licensing and Regulation, 1033 South Washington Avenue, Lansing, Michigan 48926.

BOARD OF OSTEOPATHIC REGISTRATION LAW

Act 162, 1903, as amended

An act to regulate the practice of osteopathic medicine and surgery in the state of Michigan, to provide for the examination, licensing and registration of osteopathic physicians and surgeons, to appoint a state board of osteopathic registration and examination and for the punishment of offenders against this act; to provide for the disposition of moneys received under this act; to repeal acts and parts of acts in conflict therewith; and to provide for the creation and protection of medical review committees of the state or local medical societies or of a medical staff of a hospital or a nursing home.

The People of the State of Michigan enact:

338.101 Board of osteopathic registration; members, bond of treasurer, compensation, expenses, rules, seal, meetings, records. [M.S.A. 14.571]

Sec. 1a. As used in this act:

(a) "Board" means the board of osteopathic registration and examination created under this act.

(b) "Department" means the department of licensing and regulation.

(c) "Osteopathic medicine and surgery" means a separate, complete, and independent school of medicine and surgery utilizing full methods of diagnosis and treatment in physical and mental health and disease, including the prescribing and administration of drugs and biologicals of all kinds, operative surgery, obstetrics, radiological and other electromagnetic emissions, and placing special emphasis on the interrelationship of the musculoskeletal system to all other body systems.

(d) "Licensee" means a person licensed to practice osteopathic medicine and surgery under this act.

Sec. 1b. (1) The Michigan state board of osteopathic registration and examination is created within the department of licensing and regulation.

(2) The board consists of 9 members appointed by the governor by and with the advice and consent of the senate and the director of the department of licensing and regulation as ex-officio without vote. Eight of the members shall be osteopathic physicians and surgeons. An osteopathic physician appointed to the board shall be a graduate of an accredited college of osteopathic medicine and surgery and either have been engaged in the practice of osteopathic medicine and surgery in this state or have been a member of the faculty of an accredited college of osteopathic medicine, or both, for not less than 4 years immediately preceding the time of appointment. Not more than 1 full-time member of a faculty of a college of osteopathic medicine may be a member of the board at a time. One of the members shall be a representative of the public. The representative of the public shall not be a physician licensed under this act or Act No. 185 of the Public Acts of 1973, being sections 338.1801 to 338.1818 of the Michigan Compiled Laws, or the spouse of such a person. The representative of the public may not have a material financial interest in the providing of a professional service under this act or Act No. 185 of the Public Acts of 1973, or in an activity directly related to the profession or occupation.

(3) The board created in subsection (1) shall not be construed as creating a new board, but shall be construed as revising, reorganizing, and continuing the board originally created in section 1 and repealed by the act that added this section.

(4) The terms of the members shall be for 4 years and have the same expiration date, regardless of the year of expiration, except the initial terms of those members first serving on the board as reorganized under this section shall be as follows:

(a) The 5 members appointed pursuant to section 1 and already serving upon the effective date of this section shall continue to serve for the remainder of their respective unexpired terms of their appointments under section 1.

(b) Of the 3 osteopathic physician and surgeon members added by this section, 2 shall be appointed for a term of not more than 3 years and 1 for not more than 1 year.

(c) The initial term of the member who is representative of the public shall be for not more than 4 years.

(5) A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(6) The governor may appoint a person from a list of persons recommended by the Michigan association of osteopathic physicians and surgeons or its successor. The list shall contain at least twice as many names as there are vacancies to be filled.

Sec. 1c (1) The department shall have charge of the offices of the board and of its records and all moneys collected, shall supervise all necessary administrative work of the board, shall perform the duties usually appertaining to such offices.

(2) The members of the board shall receive a per diem as appropriated by the legislature plus actual and necessary expenses incurred in the performance of their official duties.

(3) The board may promulgate rules to carry out this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(4) The board shall meet at least once each year. The president, vice-president, and secretary may administer oaths. Five members constitute a quorum. Decisions shall be made by a majority vote of a quorum.

(5) The board shall keep a record of its proceedings and a register of all licensees, stating the name of the licensee, the institution and date of granting the licensee's degree of doctor of osteopathy or of osteopathic medicine and surgery. The books and register of the board and copies therof certified by the executive secretary are admissible as evidence in all proceedings in this state.

338.102 Certificate; fee, application; educational requirements; examination.

Sec. 2. (1) A person, before engaging in the practice of osteopathic medicine and surgery, shall, upon the payment of a fee of $50.00, make application for a license to practice osteopathic medicine and surgery to the board on a form prescribed by the board, giving all of the following information:

(a) The applicant's name, age, which shall not be less than 18 years, and residence.

(b) Evidence of a diploma from a college of osteopathic medicine and surgery approved by the board.

(c) The date of his diploma, and evidence that the diploma was granted on personal attendance and completion of a course of study approved by the board, and such other information as the board may require.

(d) Proof that he has satisfactorily completed a rotating internship of not less than 12 months in a hospital accredited by the American osteopathic association, or the equivalent of the internship as determined by the board.

(2) If the facts thus set forth, and to which the applicant shall be required to make affidavit, meet the requirement of the board, and demonstrate the applicant's fitness for licensure as promulgated in its rules, then the board shall require the applicant to submit to an examination as to his qualifications for the practice of osteopathic medicine and surgery, which shall include all subjects which the board determines are necessary to a thorough knowledge of the practice of osteopathic medicine and surgery. If the examination is passed in a manner satisfactory to the board, then the board shall issue its license granting him the right to practice osteopathic medicine and surgery. Any person failing to pass such examination may be reexamined to the extent and in a manner determined by the board within a year from the time of the failure without additional fee. The board may accept, in lieu of the examination, a certificate of the national board of osteopathic examiners, or its successors, which the board finds demonstrates that the person possesses the knowledge required under this act for licensure. The board may in its discretion dispense with an examination of the case of an osteopathic physician duly authorized to practice osteopathic medicine and surgery in any other state or territory, or the District of Columbia, who presents a certificate or license issued after an examination found by the board to be substantially equivalent to standards established in Michigan which is given by the legally constituted board of such state, territory, or District of Columbia, and who makes application on a form to be prescribed by the board, accompanied by a fee of $75.00. Before licensing an osteopathic physician and surgeon without an examination under this section, the board in its discretion may require the applicant to personally appear before the board for an interview to determine fitness for licensure.

(3) A person shall not pursue post-doctoral study before obtaining a regular license or a temporary license to practice under this section. The board may grant temporary annual licenses to practice as interns and residents to doctors of osteopathic medicine and surgery who are pursuing post-doctoral study and who meet the qualifications and conditions for the practice of osteopathic medicine and surgery within this state excepting the making of application to be registered and licensed and the taking of the examinations required by this act if the person makes an application to, and is approved by, the hospital board or college dean responsible for the trianing, conforms to the rules promulgated by the hospital board or college dean with reference to the training, confines his practice and training within a college or hospital, approved by the board for the training, and neither the applicant nor the hospital or college receives any fees for the applicant's services from any patients during the period of the training. The hospital shall be responsible for training and any violation of this section may cause it to be dropped from the lists of hospitals or colleges approved for training. The fee for a temporary license is $10.00 per annum renewable for not more than 5 years. Violation of this act by a

temporary licensee under this act may constitute cause for revocation of the temporary license and denial of a permanent license.

(4) The board may issue a temporary annual license for an education course or program approved by the board given under the supervision or direction of a doctor of osteopathic medicine and surgery, in a hospital or institution approved by the board, to a person who pays a fee of $10.00 and who satisfies the board that he meets the requirements of this section. This license may be renewed annually for a term of not more than 5 years.

(5) The board shall establish the requirements of education and licensure under this act for the approval of colleges of osteopathic medicine and surgery so as to maintain the average standard of osteopathic medical education as in other states. The board may approve colleges accredited by the American osteopathic association, or its successors, on its being satisfied that the approval is consistent with the board's requirements.

338.102a Educationl requirements; modification during state of war.

Sec. 2a. The educational requirements prescibed in section 2 of this act may be modified by order of the Michigan state board of osteopathic registration and examination during the state of war now existing between the United States and each of the various other nations or countries of the world with which this country is now at war or with which this country may be at war prior to the cessation of the present hostilities.

338.103 State board of osteopathic registration and examination; fees paid into state treasury; compensation and expenses; renewal fee; attendance at education programs. [M.S.A. 14.573]

Sec. 3. (1) All fees collected on behalf of the board by the department shall be paid to the state treasurer for credit to the general fund of the state. The compensation of the executive secretary and expenses of members and officers of the board, and all expenses proper and necessary for the board to discharge its duties under and to enforce the law, shall be paid out of such fund by appropriation made to the department for this purpose.

(2) A person who receives a license to practice osteopathic medicine and surgery from the board shall pay to the board before January 1, 1976, and before January 1 of each year thereafter, excepting the year in which he is originally licensed, a renewal fee of $25.00. If satisfactory evidence is presented to the board that the licensee in the year preceding the application for renewal attended continuing education courses or program totaling at least 25 hours approved by the board, on subjects related to the practice of osteopathic medicine and surgery, designed to further educate licensees under this act, a renewal license shall be issued. The board may accept, as fulfilling the educational requirements, the application for renewal of any licensee who attended at least a 25 hour educational program as conducted by the Michigan association of osteopathic physicians and surgeons or its successors, or an equivalent program as approved by the board. Failure on the part of the licensee to furnish evidence of having attended approved courses or programs during the preceding calendar year shall preclude renewal of the license unless waived by the board upon written application. If, upon application for waiver, the board finds the failure of the licensee to attend was due to the licensee's

disability, military service, or absence from the continental United States of America, or was due to other circumstances beyond the control of the licensee which are deemed good and sufficient by the board, the requirement shall be deemed waived for that year only and the license shall be renewed upon the payment of the fees as provided in this act.

(3) If a licensee fails to pay the annual renewal fee within 30 days after it is due, or fails to produce satisfactory evidence of attendance at the continuing education courses, the board shall give 30 days' notice by certified mail to the licensee's last registered address according to board records. Thereafter, the license shall be revoked automatically at the expiration of the 30 days' notice without further notice or hearing. A person whose license is revoked for nonpayment of the renewal fee, or failure to produce satisfactory evidence of attendance at the continuing education courses, may apply in writing to the board for reinstatement of the license upon payment of all past due renewal fees, upon further payment of the sum of $35.00, and upon producing satisfactory evidence of attendance at the continuing education courses. Members of the armed forces or public health service are exempt from the annual license renewal fee during their active duty status. Failure to renew a license shall automatically revoke the rights and privileges granted under this act.

(4) A licensee who retires from the practice of osteopathic medicine and surgery need not register annually after he files with the board an affidavit on a form to be provided by the board stating the date on which he retired from practice and such other facts to verify his retirement as the board deems necessary. A retired licensee desiring reinstatement shall pay all back annual license renewal fees from the date of retirement without penalty or reinstatement fees of any kind. Licensees who have been retired 1 year or less shall attend at least 25 hours of educational programs as described in this section before applying for reinstatement. Licensees who have been retired for more than 1 year shall attend at least 50 hours of educational programs within 12 months of the date of application for reinstatement.

338.104 Certificate holder; rights, duties.

Sec. 4. The license provided for in section 2 shall entitle the holder thereof to practice osteopathic medicine and surgery in the state of Michigan in all of its branches. Osteopathic physicians and surgeons shall observe and be subject to all laws and rules relating to the public health in the state of Michigan.

338.106 Practice of osteopathy or use of titles without compliance; penalty.

Sec. 6. (1) A person who practices or attempts to practice, or holds himself out as practicing osteopathic medicine and surgery in treating diseases of the human body, or a person who buys, sells, or fraudulently obtains a diploma, license, record, or registration to practice osteopathic medicine and surgery, or who aids or abets in such selling or fraudulent obtaining or who practices osteopathic medicine and surgery under cover of a diploma, license, record, or registration to practice osteopathic medicine and surgery, illegally obtained, or signed or issued unlawfully or under fraudulent representations; or who after conviction of any felony practices osteopathic medicine and surgery, or who uses any of the forms of letters, "Osteopath", "Osteopathist", "Osteopathy", "Osteopathic Practitioner", "Doctor of Osteopathy", "Diplomate in Osteopathy", "D.O.", or any other titles or letter either alone or with qualifying words or phrases, under such circumstances as

to induce the belief that the person who uses such terms is engaged in the practice of osteopathic medicine or surgery without having complied with the provisions of this act, is guilty of a felony.

(2) This act shall not be construed as prohibiting any licensed osteopathic physician and surgeon in any other state from consulting with a licensed osteopathic physician and surgeon in this state for consultation; or any osteopathic physician and surgeon residing on the border of a neighboring state, and duly authorized under the laws thereof to practice, whose practice may extend into this state, and who does not open an office or appoint a place of meeting or receive calls in this state. The attorney general of this state or the prosecuting attorneys of the counties of this state shall prosecute violations of this act.

(3) Upon the violation of this act or upon the violation of a rule or order of the board, a judge of the circuit court of a county where such violation occurs may restrain and enjoin the person, firm, or corporation from further violating this act, rules promulgated pursuant to this act or orders issued under this act. Injunctive relief may be granted directly upon the application of the board in its own name, or on the application of the attorney general, or the prosecuting attorney of the county where the violation occurs. This proceeding is in addition to and not in lieu of criminal prosecutions or proceedings to revoke or suspend licenses as authorized by this act.

338.107 Inapplicability of act.

Sec. 7. The practice of osteopathic medicine and surgery is not the practice of medicine or surgery within the meaning of the medical practice act, Act No. 185 of the Public Acts of 1973, being sections 338.1801 to 338.1818 of the Michigan Compiled Laws, and not subject to the provisions of that act. This act shall not apply to any legally qualified medical practitioner practicing medicine and surgery, under the medical practice act nor to any person qualified by education, training, and experience to assist a physician, and who performs selected acts, tasks, or functions under the direction and control of a licensed osteopathic physician and surgeon, nor to a person licensed under other laws of this state to the extent authorized by his license, nor to a person who, in good faith, ministers to the sick or suffering by spiritual means alone, through prayer in the exercise of a recognized established religion, if he does not use or prescribe drugs, medicine, or surgery, or assume the title of, or hold himself out to be, an osteopathic physician or surgeon.

338.109 Revocation or suspension of licenses, complaints, filling; hearing, appeal.

Sec. 9. (1) The board may revoke or suspend a license under this act for a limited period or place on probation or reprimand a licensee, or refuse to register or reinstate a licensee for any of the following causes:

(a) The conviction of any felony, or conviction of a misdemeanor involving conduct bearing upon his fitness to practice osteopathic medicine and surgery, in either of which cases a certified copy of the court record shall be conclusive evidence.

(b) For any violation of this act or any rules of the board promulgated under section 1c.

(c) For fraud or deceit in procuring admission to practice.

(d) For unprofessional conduct for gross ignorance. The term ''unprofessional conduct'' includes advertising for or otherwise soliciting patients, habitual intemperance, and gross immorality.

(e) For mental or physical inability or incompetency to practice osteopathic medicine or surgery with reasonable skill and safety, or inefficiency in his profession.

(f) Employing a solicitor for the purpose of procuring patients.

(g) To attract or attempt to attract any person by means of any public demonstration of any phase of osteopathic medicine or surgery.

(h) By offering, selling, or giving away any cure or any nostrum in order to induce such person or persons to enter any osteopathic physician and surgeon's office.

(i) Obtaining any fee by fraud or misrepresentation.

(j) Representing, with the purpose of obtaining compensation or other advantage for himself or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured.

(k) Employing or knowingly permitting or conducting his practice so carelessly or negligently as to permit directly or indirectly any student of osteopathic medicine, except as herein provided, or any unlicensed person or one whose license has been suspended or revoked, to perform operations of any kind or to treat illness of the human body.

(l) Permitting one's name or one's license to be used by a person, group or corporation when the osteopathic physician and surgeon concerned is not actually in charge of or responsible for the treatment given.

(m) Failure to use reasonable care and discrimination in the administration of drugs and failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease.

(n) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purpose.

(o) Failure to report a change of address to the board within 30 days after the change has taken place.

(2) An accusation against a licensee shall be in writing and a copy shall be filed with the executive secretary of the board. Should it be deemed that the charges made are sufficient, if true, to warrant probation or the suspension of or revocation of a license, the executive secretary shall make an order fixing the time and place for a hearing and requiring the accused to appear and answer. The order together with a copy of the charges shall be served upon the accused at least 20 days before the date set for a hearing, either in person or by certified mail sent to his last known post office address. The person accused shall appear at the time and place fixed in the order and answer the charges and make his defense thereto unless for sufficient cause the board shall assign some other date. If he does not appear, the board may hear and determine the matter in his absence. If the accused person pleads guilty, or if after hearing he is found guilty by the board of any of the charges made, the board may revoke the license of the person or suspend his license for a limited period, or place on probation or reprimand the licensee, and shall enter the order upon its records. Unless otherwise provided in this act, hearing procedures shall be promulgated in accordance with Act No. 306 of the Public Acts of 1969, as amended. Upon such hearing the board and accused may be represented by counsel, and the board may take depositions and compel the attendance of witnesses.

(3) A licensee feeling himself aggrieved by the decision of the board may take an appeal pursuant to Act No. 306 of the Public Acts of 1969, as amended.

Sec. 10. (1) An application for restoration of a license which is revoked may be made to the board not less than 1 year after the effective date of the revocation. The board shall grant a hearing within a reasonable time following the application for reinstatement.

(2) The board may grant the reinstatement of a revoked license or grant a license of limited scope of practice, if, after a hearing, it is satisfied that the applicant is of good moral character, is able to practice osteopathic medicine and surgery with reasonable skill and safety to the patient, and should be permitted in the public interest to resume such practice. As a condition to the reinstatement of a license, the board may impose a disciplinary or corrective measure authorized under tis act.

(3) In a hearing conducted under this section where mental or physical inability or incompetence is charged under section 9(1)(e), the board may compel the physician charged to submit to a mental or physical examination conducted by physicians designated by the board or the board may schedule and conduct an examination to determine the physician's competency. The examination shall be at the expense of the board. If the board finds that the physician is mentally or physically unable to practice osteopathic medicine or surgery with reasonable skill and safety, or is incompetent and that it would serve the interest of the public to do so, the board may suspend or revoke the license. The license shall not be reinstated until the board finds the physician has become mentally or physically able or competent to practice osteopathic medicine and surgery with reasonable skill and safety. The board may require, as a condition of reinstatement, that the physician attend a school approved by the board and take such courses or take such training as the board designates in order to become competent in those areas the board has found the physician to be deficient. The board may require a statement in a form approved by the board from the dean of the school attended or the person responsible for the training certifying that the physician has achieved the desired competency. The board may conduct such further examination of the physician as it finds necessary to verify that the physician has become mentally or physically able or competent to have the license reinstated. Failure or refusal to submit to an examination the board is authorized to require under this act, after reasonable notice and opportunity, constitutes ground for suspension of the license until the examination is taken.

(4) For the purposes of this section, an osteopathic physician and surgeon licensed under this act who accepts the privilege of practicing in this state, and by so practicing or by the making and filing of an annual license renewal to practice in this state, is deemed to have given his consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of the testimony or examination reports of the examining physician on the ground that the testimony or reports constitute a privileged communication.

Sec. 11. (1) As used in this section, "medical review committee" means a committee of a state or local professional society or of a medical staff of a hospital or nursing home, established pursuant to written bylaws, or similar peer review

committee whose function it is to review the conduct of a licensee, including adherence to standards of conduct imposed by a professional society, hospital, or nursing home, charges for professional services, or competence as an osteopathic physician and surgeon.

(2) Monetary liability does not arise and a cause of action does not lie against a member of a duly appointed medical review committee for an act or proceding undertaken or performed without malice or fraud within the scope of the functions of any such committee.

(3) Records, data, and knowledge collected for or by a medical review committee are confidential and may be used only for the purposes of the committee within the authority of its review function and shall not be available for court subpoena.

Section 2. Sections 1 and 5 of Act No. 162 of the Public Acts of 1903, as amended, being sections 338.101 and 338.105 of the Compiled Laws of 1970, are repealed.

This act is ordered to take immediate effect.

WILLIAM G. MILLIKEN, Governor
BEVERLY J. CLARK, Director

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATION
BOARD OF OSTEOPATHIC REGISTRATION AND EXAMINATION
1116 SOUTH WASHINGTON AVENUE, LANSING, MICHIGAN 48926
TELEPHONE AC 517 373-1655

BOARD MEMBERS
JOHN WEITZEL, D.O.
J. DONALD SHEETS, D.O.
ROBERT T. HARRISON, D.O.
DOROTHY E. CARNEGIE, D.O.
EUGENE L. SIKORSKI, D.O.
ALFRED A. FERRIS, D.O.
HAROLD G. McNEIL, D.O.

TO THE LICENSEE ADDRESSED: I M P O R T A N T

Act No. 213, P.A. 1974, was passed in July of 1974. This Act amends Act No. 162, P.A. 1903, and is in essence the new Osteopathic Statute. The new Statute has many new provisions and we suggest that you read the enclosed copy in its entirety. However, we would summarize the more important changes at this time which most affect you as a currently licensed osteopathic physician and surgeon in the State of Michigan.

The new Statute changes the date of re-registration from July 1 to January 1. You are not, therefore, required to renew your license until on or before January 1, 1976. Enclosed you will find your annual license bearing an expiration date of December 31, 1975, to cover the period from the expiration of your current license (July 1, 1975) to the effective date of your annual license under the new system (January 1, 1976).

On or about October 1 of this and each subsequent year, you will receive your annual re-registration application. The renewal fee remains at $25.00 with a delinquent penalty fee of $35.00 additional if filed after January 1.

Another major change in re-registration is the increase of the approved post-graduate credit hours from eight (8) to twenty-five (25). For this first renewal period since the enactment of the new Statute, you may utilize approved credits from the period from July 1, 1974 through December 31, 1975. Thereafter, credits must be accumulated on a January 1 to December 31 basis, of the year immediately preceeding.

Postgraduate courses are reviewed by this Board on an individual basis. The criteria for acceptance and approval by this Board is as follows:

1. At least 50% of the program speakers must be osteopathic physicians.

2. The program must show evidence of instruction in the concept of osteopathic medicine.

Please note that acceptance and approval of any postgraduate course by the American Osteopathic Association does not necessarily constitute acceptance and approval by this Board.

If in doubt as to the approval of any program, or the number of hours given by this Board, please call or write the Board office in Lansing at the above number.

(O V E R)

MICHIGAN
THE GREAT LAKE STATE

All postgraduate credits must be verified and submitted to the Board office with your renewal application and fee. The Board will consider waiver of the postgraduate requirements for any of the following verified reasons:

1. Age 70 or older.
2. Illness (verified by attending physician)
3. AOA approved fellowship or residency training programs.
4. Military or public health service.

We would specifically refer you to Section 3(3) of the enclosed Statute which states, in part: *"If a licensee fails to pay the annual renewal fee within thirty (30) days after it is due, or fails to produce satisfactory evidence of attendance at the continuing education courses, the Board shall give 30 days' notice..... Thereafter, the licensee shall be revoked automatically....without further notice or hearing...."*

We would also refer you to section 9 of the enclosed Statute which broadens the areas for which a licensee may be subject to revocation, suspension, probation, etc. Please pay particular note to Section 9 (1)(o). We would advise you that this provision, however minor, will be enforced.

In conclusion, we would again strongly advise that the entire contents of Act 213 be reviewed and any questions regarding any aspect of the provisions contained therein be directed to this office.

Fraternally yours,

Roy G. Bubeck, Jr., D.O.
Executive Secretary